

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

PHILIP LEE; PAMELA WHITE;
PATRICIA VANDUSEN; RONALD
ALLIX; and RANDY WELCH,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

BELVOIR MEDIA GROUP, LLC,

Defendant.

Case No. 4:22-cv-12153-SDK-DRG

Hon. Shalina D. Kumar

Mag. David R. Grand

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs, individually and on behalf of all others similarly situated, submit this notice of supplemental authority to apprise the Court of a recent decision relevant to the issues raised in Plaintiffs' response in opposition (ECF No. 19) to Defendant's motion to dismiss (ECF No. 18):

1. On March 30, 2023, Judge Shalina D. Kumar issued a decision denying the defendant's motion to dismiss in *Batts v. Gannett Co.*, Case No. 4:22-cv-10685, ECF No. 28 (E.D. Mich. Mar. 30, 2023), a PPPA action similar to the instant matter. A copy of the *Batts* decision is attached hereto as Exhibit A.

2. In *Batts*, the court held that the plaintiffs, having adequately stated a claim for violation of the PPPA, necessarily had Article III standing to bring suit in federal court. *See Batts*, at 7 ("The Court finds that it has been conclusively established that 'a violation of the PPPA necessarily arises from the nonconsensual dissemination of information that reflects a plaintiff's personal reading choices, which acutely invades a statutorily protected right to privacy in such matters and, thus, inflicts harm in a concrete and particularized way[.]'" (quoting *Pratt v. KSE Sportsman Media, Inc.*, 586 F. Supp. 3d 666, 671 (E.D. Mich. 2022))).

3. The court in *Batts* also held that the six-year limitation period found in M.C.L. § 600.5813 applied to plaintiffs' PPPA claims, and that the limitation period was tolled for 101 days pursuant to Mich. Executive Order 2020-58 and Michigan Supreme Court Administrative Order 2020-3 (the "COVID-19 Orders"). *See id.*, at

10 (“Consistent with the now well-established rulings from courts within the circuit, the Court finds that the six-year limitations period applies to the plaintiffs’ claims.”) & 11 n.4 (finding that the six-year limitation period was tolled for 101 days pursuant to the COVID-19 Orders).

4. Finally, the *Batts* court found that the plaintiffs’ complaint contained “well-pleaded allegations that they were USA Today subscribers and that Gannett disclosed their private reader information without their authorization within the relevant time period.” *Batts*, at 13. Recognizing that it “must accept plaintiffs’ allegations as true,” the court “f[ound] that they are sufficient to state a claim for relief that is plausible on its face” and accordingly denied the defendant’s motion to dismiss pursuant to Rule 12(b)(6). *Id.* at 13; *see also id.* at 4-5 (construing defendant’s motion as a Rule 12(b)(6) motion). Notably, in reaching its decision, the court considered and rejected defendant’s arguments regarding the recent decision in *Nashel v. The New York Times Co.*, 22-cv-10633 (E.D. Mich. Oct.11, 2022). *See Batts*, at 2 n.2.

Dated: March 31, 2023

Respectfully submitted,

/s/ E. Powell Miller

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CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2023, I electronically filed the foregoing documents using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

/s/ E. Powell Miller

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